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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,665	01/28/2002	Paul R. Margiott	01-551	3827

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GEORGE A. COURY  
BACHMAN & LaPOINTE, P.C.  
Suite 1201  
900 Chapel Street  
New Haven, CT 06510-2802

EXAMINER

WILLS, MONIQUE M

ART UNIT PAPER NUMBER

1746

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/058,665

Applicant(s)

MARGIOTT ET AL.

Examiner

Monique M Wills

Art Unit

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6 and 8-10 is/are rejected.
- 7) ☒ Claim(s) 2,5 & 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/28/02.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Information Disclosure Statement*

The information disclosure statements filed January 28, 2002 and April 1, 2003 has/have been received and complies with the provisions of 37 CFR 1 .97, 1.98 and MPEP § 609.

### *Allowable Subject Matter*

Claims 2, 5 & 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 2 would be allowable over the prior art of record, because the prior art is silent to a method for operating a fuel cell power plant, wherein a second portion of reformat is separated from a first portion of reformat upstream of the fuel cell stack.

Claim 5 would be allowable over the prior art of record, because the prior art is silent to a method for operating a fuel cell power plant comprising the step of separating a second portion of reformat from the first portion of reformat downstream of the shift converter and upstream of the fuel cell stack.

Claim 7 would be allowable over the prior art of record, because the prior art is silent to a method of selectively operating the fuel processor to provide a first reformat flow rate when the second reformat is not being provided as end-use reformat, and to provide a

second reformat flow rate greater than said first reformat flow rate when said second reformat portion is being provided as end-use reformat.

*Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

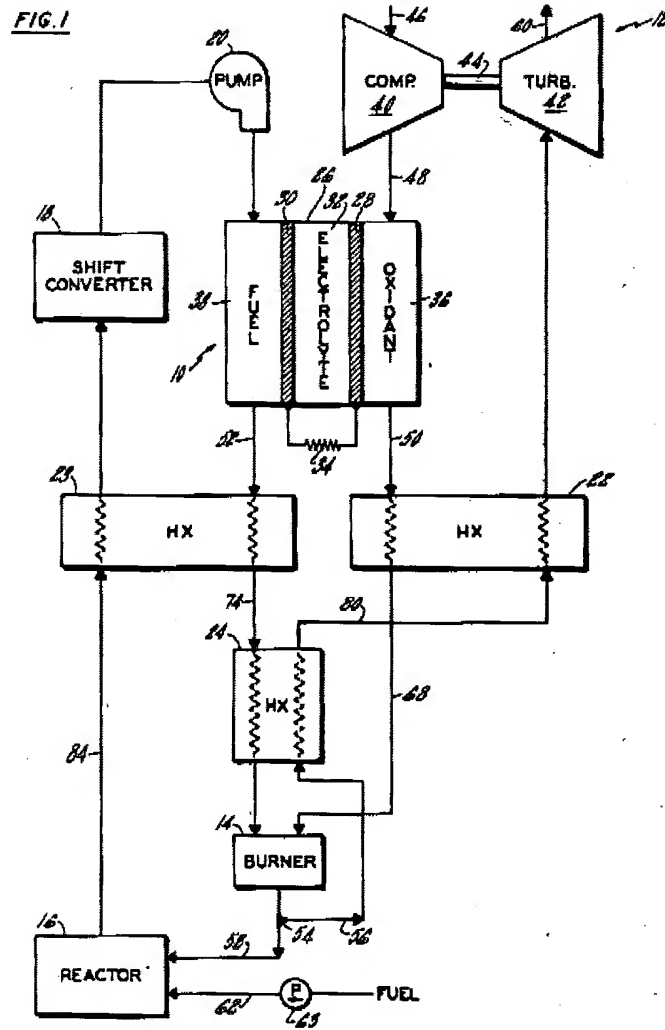
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by Sederquist U.S.

Patent 4,128,700.

Sederquist teaches: a fuel cell (10) that consumes reformat from shift converter (18) to provide electricity and heat; and a fuel processor (16) for generating reformat; wherein the fuel cell communicates to receive reformat from the fuel processor (16); and a bleed flow path (92) down stream from the fuel processor. The limitation with respect to conveying a portion of the reformat to an end use application, has been considered but does not impart patentability, because the bleed flow path is capable of performing said function. See Figure 1.



Therefore, the instant claim is anticipated by Sederquist.

*Claim Rejections - 35 USC § 102*

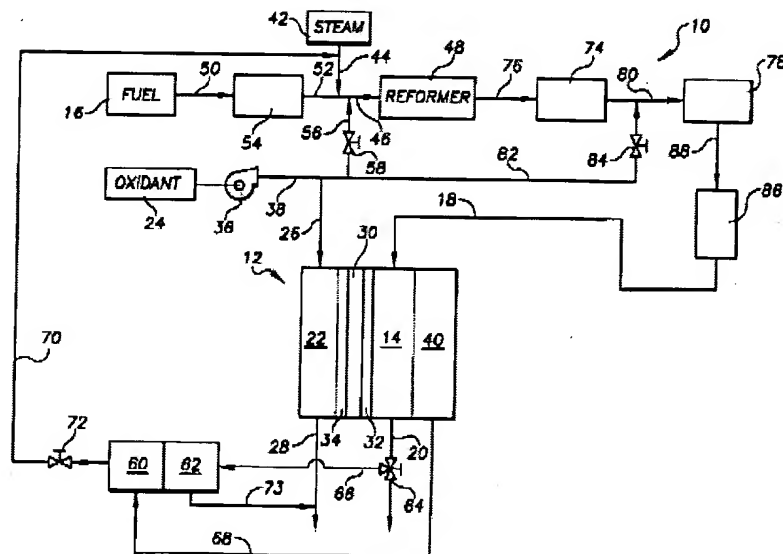
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 8-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Bonville et al.  
U.S. Patent 6,376,114.

With respect to claim 8, Bonville teaches a fuel cell (12) that consumes reformato to provide electricity and heat; and a fuel processor (48) for generating reformato; wherein the fuel cell communicates to receive reformato from the fuel processor (18); and a bleed flow path (64) down stream from the fuel processor (48). See Figure 1. The limitation with respect to conveying a portion of the reformato to an end use application has been considered but does not impart patentability because the bleed flow path is capable of performing said function.



As to claim 9, the fuel cell system further comprises a controller (col. 9, lines 35-45). The limitations with respect to the control adapted to increase output of the fuel process upon detecting flow in the bleed flow path has been considered, but does not impart patentability because the controller is capable of performing said function. Furthermore, it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchinson*, 69 USPQ138.

In re claim 10, the fuel cell plant further comprises a water recover device communicated with the fuel cell power plant for returning recovered water to the fuel cell (col. 2, lines 20-30).

Therefore, the instant claims are anticipated by Bonville.

### *Claim Rejections - 35 USC § 103*

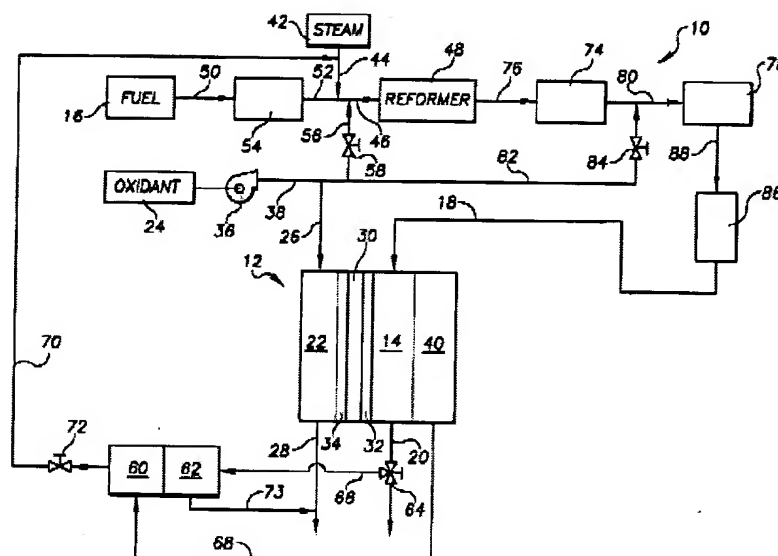
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,3-4 & 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonville et al. U.S. Patent 6,376,114.

With respect to claim 1, Bonville teaches a method for operating a fuel cell power plant comprising: providing a fuel cell power plant (12) that consumes reformat (82) to provide electricity and heat, providing a fuel processor system (46) for generating reformat from a

hydrocarbon fuel (16); operating the fuel cell power plant using a first portion in stream (20) and a second portion after valve (64). As to claim 3, the second portion after valve (64) is separated from the fuel cell exhaust gas downstream of the fuel cell (12). The second portion of anode exhaust stream contains some hydrogen rich fuel that has not been used by the fuel cell (col. 6, lines 25-35). In re claim 6, the method further comprises recovering water and returning it to the fuel cell power plant (col. 2, lines 20-30).



Bonville is silent to: providing the second portion as end-use reformat (claim 1) and storing said second portion (claim 4).

However, it would have been obvious to one of ordinary skill in the art at the time the instant invention was made to provide the second portion as end-use reformat and storing said portion in order to re-use the reformat during start-up operations. The skilled artisan recognizes that re-using unreacted fuel reducing the costs of supplying raw fuel.



*Conclusion*

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Monique Wills whose telephone number is (571) 272-1309. The Examiner can normally be reached on Monday-Friday from 8:30am to 5:00 pm.

If attempts to reach Examiner by telephone are unsuccessful, the Examiner's supervisor, Michael Barr, may be reached at 571-272-1414. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

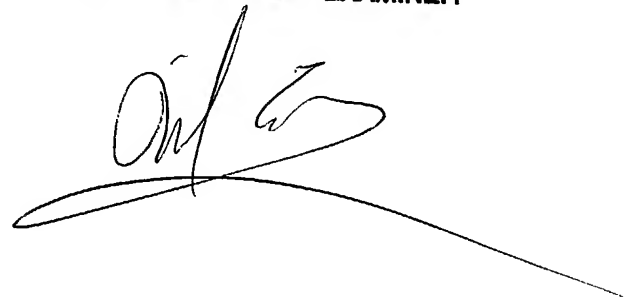
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MW

12/11/04

MICHAEL BARR  
SUPERVISORY PATENT EXAMINER

A handwritten signature in black ink, appearing to read 'Michael Barr', is written over a horizontal line. The signature is stylized with a large, sweeping underline that extends to the right.